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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/508,984	09/24/2004	Jacob Kildegaard	30120/32006	1152
4743	7590	05/19/2006	EXAMINER	
MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606			NGUYEN, SON T	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/508,984	Applicant(s) KILDEGAARD, JACOB	
	Examiner Son T. Nguyen	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 18-21 is/are pending in the application.
- 4a) Of the above claim(s) 18-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-16 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**SON T. NGUYEN
PRIMARY EXAMINER**

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/24/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of group I, claims 1-16 in the reply filed on 3/3/06 is acknowledged. Claims 18-21 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 1,11-13** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites the subcombination of a device for driving animals; however, claim 11 recites the combination of a device for driving and a driving gate (note, claim 11 positively recites that the driving gate is mainly plane). Therefore, the scope of the claims is inconsistent, and thus, the claims should be amended to consistently recite the combination or the subcombination.

Claim 1 recites the subcombination of a device for driving animals; however, claims 12-13 recite the combination of a device for driving and a corridor section with a side wall (note, claim 12 positively recites the corridor section with side wall). Therefore, the scope of the claims is inconsistent, and thus, the claims should be amended to consistently recite the combination or the subcombination.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-6,8,11-16** are rejected under 35 U.S.C. 102(b) as being anticipated by Joergensen et al. (5009191).

For claim 1, Joergensen et al. teach a device for driving animals in an oblong corridor section by means of a driving gate, the device comprising a first transport arrangement 21 to move the driving gate in a longitudinal direction, the first arrangement comprising a displaceable mounting part (the support member where the gate 10 and motor are mounted thereon to glide on rail 21) which can be moved in the longitudinal direction; a second transport arrangement (the member to move gate 10 up or down the corridor, see col. 7, lines 64-68) to pull the gate sideways out from the corridor, the second arrangement comprises a second displaceable mounting part (the support member for the gate, see col. 7, lines 60-68) that can be moved transversely to the longitudinal direction.

For claim 2, Joergensen et al. teach the second transport arrangement I suspended in the mounting part of the first transport arrangement when the gate 10 is positioned in the corridor.

For claim 3, Joergensen et al. teach the first transport arrangement has at least two guiding surfaces 21 which are parallel to each other and extend in the longitudinal

Art Unit: 3643

direction of the section, along which guiding surfaces the first mounting part can be displaced.

For claim 4, Joergensen et al. teach the first arrangement comprises a motor 20.

For claim 5, Joergensen et al. teach the first transport arrangement comprises an oblong element 21 (the rail is oblong along the corridor) and a coupling device (the wheels gliding on the rail).

For claim 6, Joergensen et al. teach the second transport arrangement comprises a motor (fig. 2 and col. 8, lines 1-5, the motor to lower or raise the gate 10).

For claim 8, Joergensen et al. teach the second arrangement has at least two guiding surfaces (col. 7, lines 64-68 and col. 8, lines 1-5, to move the gate 10 up or down).

For claim 11, Joergensen et al. teach the driving gate is mainly plane (see fig. 2).

For claim 12, Joergensen et al. teach a side wall on each long side of the corridor section (see fig. 2).

For claim 13, Joergensen et al. teach the side wall as claimed in fig. 2. Note the 112 rejection above regarding the side wall.

For claims 14 & 15, Joergensen et al. teach a gate 10.

For claim 16, Joergensen et al. teach gates 8 (see fig. 1).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 3643

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 9 & 10** are rejected under 35 U.S.C. 103(a) as being unpatentable over Joergensen et al. (as above).

Joergensen et al. lack a control unit. It is notoriously well known in the art of animal control that a control unit to co-ordinate the elements is employed to automatically control the whole system so as to save time and operating efficiency of the system. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a control unit in Joergensen et al.'s device in order to provide a main control to operate everything so as to save time and operating efficiency of the system.

Allowable Subject Matter


8. **Claim 7** is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 571-272-6889. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3643

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Son T. Nguyen
Primary Examiner
Art Unit 3643

stn